

शासकीय विधिविषयक कामकाज
चालविण्याचे नियम १९८४ च्या
नियम ९२ व १०९ खाली शासकीय
कर्मचाऱ्यांना विधी सहाय्य पुरविणेबाबत.

महाराष्ट्र शासन,
विधी व न्याय विभाग,
शासन परिपत्रक क्र.संकीर्ण-२०११/९३३६/ई-शाखा
मादाम कामा मार्ग, हुतात्मा राजगुरु चौक,
मंत्रालय, मुंबई-४०० ०३२,
दिनांक:-२० डिसेंबर, २०११.

शासन परिपत्रक :- शासकीय अधिकारी/कर्मचारी यांना त्यांची दैनंदिन कार्यालयीन कर्तव्ये पार पाडावी लागतात आणि अशी कार्यालयीन कर्तव्ये सद्हेतूने/सद्भावनेने पार पाडत असतांना ते लोकहितास्तव काही निर्णय घेतात. तथापि, शासनाने/अधिकार्यांनी आपली कार्यालयीन कर्तव्ये पार पाडत असताना सद्हेतूने/सद्भावनेने घेतलेल्या निर्णयांनी व्यथित झालेल्या काही व्यक्ती बऱ्याच वेळा असे निर्णय दिवाणी आणि/अथवा फौजदारी न्यायालयात आव्हानित करतात आणि अशा प्रकरणात शासकीय अधिकारी/कर्मचारी यांना नावांनिशी आणि/किंवा नाव व पदनामाने प्रतिवादी/पक्षकार करतात. शासनाची विधिविषयक कामकाज चालविण्याची नियमावली १९८४ (यापुढे ज्याचा उल्लेख १९८४ चे नियम असा केला आहे.) मध्ये अशा अधिकारी/कर्मचाऱ्यांना विधी सहाय्य पुरविण्याबाबत तरतूदी असतांनाही त्यांना वेळेवर विधी सहाय्य उपलब्ध होत नाही. त्यामुळे त्यांची गैरसोय होऊन ते अडचणीत येतात, अशा तक्रारी, नावांनिशि/नाव व पदनामाने पक्षकार केलेल्या अधिकारी/कर्मचारी यांच्याकडून केल्या जातात. तसेच अशा शासकीय अधिकारी/कर्मचाऱ्यांमध्ये असुरक्षितता व एकटेपणाची भावना वाढीस लागते. जे अधिकारी/कर्मचारी सेवानिवृत्त झालेले आहेत, परंतु शासकीय सेवेत असतांना कार्यालयीन कामकाजासंदर्भात ज्यांना दिवाणी/फौजदारी प्रकरणी नावांनिशि/नाव व पदनामाने पक्षकार केलेले असते, त्यांच्याबाबतही असेच घडते. शासकीय अधिकारी/कर्मचारी यांच्यावर वारंवार होणारे हल्ले रोखण्यासंदर्भात उपाययोजना व कार्यालयीन कामकाज बजावतांना दिवाणी/फौजदारी न्यायालयात नावांनिशि पक्षकार केलेल्या प्रकरणात अधिकारी/कर्मचाऱ्यांना विधी सहाय्य पुरविण्यासंदर्भात चर्चा व विचार करण्यात आला.

ज्या शासकीय अधिकारी/कर्मचार्यांना नावानिशी व/किंवा नाव व पदनामाने पक्षकार करण्यात आले आहे, अशा अधिकारी/कर्मचारी यांना विधी सहाय्य पुरविण्यासंदर्भातील तरतुदी १९८४ चे नियमातील नियम ९२ व १०९ मध्ये समाविष्ट आहेत. जेव्हा शासकीय, कर्मचारी/अधिकाऱ्यांविरुद्ध नाव व पदनामाने न्यायालयीन प्रकरण दाखल करण्यात येते, तेव्हा अवलंबावयाची कार्यपद्धती नियम ९२ मध्ये विहित केलेली आहे. अधिकाऱ्यांना त्यांनी सदहेतूने/सद्भावनेने पार पाडलेल्या किंवा त्यांनी कार्यालयीन कर्तव्य बजावत असताना उद्भवलेल्या प्रकरणाच्या अनुषंगाने दिवाणी किंवा फौजदारी दावा दाखल करावयाचा असेल किंवा अशा प्रकरणात त्या अधिकाऱ्यांना नावानिशी व/किंवा नाव व पदनामाने केलेल्या दाव्यात बचाव करावयाचा असेल तर त्यांना विधी सहाय्य पुरविण्यासंदर्भातील कार्यपद्धती नियम १०९ मध्ये विहित केलेली आहे. सदर नियमांतील तरतुदीप्रमाणे नावानिशी वैयक्तिकरित्या व/किंवा नाव व पदनामाने पक्षकार केलेल्या अधिकारी/कर्मचार्यांना विधी सहाय्य पुरविण्यापुर्वी संबंधित प्रशासकीय विभागांनी नावानिशी/नाव व पदनामाने पक्षकार करण्यात आलेल्या अधिकारी/कर्मचार्यांनी सदहेतूने/सद्भावनेने कर्तव्य पार पाडले आहे आणि सदरहू प्रकरण त्यांनी कार्यालयीन काम पार पाडताना उद्भवले असल्याचे नित्कर्षाप्रत येणे आवश्यक आहे. अशा नित्कर्षाप्रत आल्यानंतर आणि संबंधितांना विधी सहाय्य उपलब्ध करून देणे आवश्यक असल्याची खात्री झाल्यावर संबंधित प्रशासकीय विभागाने तसा प्रस्ताव विधी व न्याय विभागाकडे करावा आणि संबंधित प्रशासकीय विभागाकडून प्रस्ताव प्राप्त झाल्यावर ज्या अधिकारी/कर्मचारी यांना नावानिशी/नाव व पदनामाने पक्षकार करण्यात आले आहे, अशा अधिकारी/कर्मचारी यांच्या वतीने न्यायालयात प्रकरण चालविण्याबाबत संबंधित विधी अधिकाऱ्यांना, विधी व न्याय विभागाकडून सूचना देण्यात येतात.

सदर कार्यपद्धती अवलंबिताना, काही वेळा थोडा अवधी लागतो. त्यामुळे ज्या अधिकारी/कर्मचारी यांना नावानिशी व/किंवा नाव व पदनामाने प्रतिवादी केले आहे, त्यांची गैरसोय होते. या संदर्भात होणारा विलंब टाळून ज्या अधिकारी/कर्मचारी यांना त्यांचे कार्यालयीन कर्तव्य सदहेतूने/सद्भावनेने पार पाडताना उद्भवलेल्या प्रकरणात नावानिशी/नाव व पदनामाने पक्षकार करण्यात आले आहे त्यांना वेळेत विधी सहाय्य मिळावे म्हणून सर्व संबंधितांनी खालील कार्यपद्धती अवलंबावी :-

(अ) अधिकारी/कर्मचारी/निवृत्त अधिकारी/निवृत्त कर्मचारी यांना दिवाणी किंवा फौजदारी प्रकरणात नावानिशी व/किंवा नाव व पदनामाने पक्षकार केल्याची नोटीस/सूचना प्राप्त होताच, त्यांना नावानिशी/नाव व पदनामाने कोणत्या परिस्थितीत पक्षकार करण्यात आले आहे ती परिस्थिती स्पष्ट

करुन विधी सहाय्य पुरविण्याबाबत तात्काळ संदर्भ त्यांच्या संबंधीत मंत्रालयीन प्रशासकीय विभागाकडे करावा.

(ब) असा संदर्भ प्राप्त होताच संबंधीत प्रशासकीय विभागाने प्रस्तावाची तात्काळ तपासणी करुन जर संबंधित अधिकारी/कर्मचारी/निवृत्त अधिकारी/निवृत्त कर्मचारी यांना त्यांनी पार पाडलेल्या कामाबद्दल/ कार्यालयीन कर्तव्य बजावताना त्यांनी सद्भावनेने केलेल्या कार्यालयीन कामासंदर्भात पक्षकार करण्यात आल्याची खात्री पटली तर संबंधीत विभागाने वेळ न दवडता या संदर्भातील प्रस्ताव ज्यांच्या कार्यक्षेत्र प्रकरण येते, त्याप्रमाणे प्रकरण-परत्वे प्रधान सचिव व विधी परामर्शी, विधी व न्याय विभाग, मंत्रालय, मुंबई/सह सचिव/उप सचिव, विधी व न्याय विभाग शाखा नागपूर/औरंगाबाद यांच्याकडे करावा.

(क) ज्या अधिकारी/कर्मचारी/निवृत्त अधिकारी/निवृत्त कर्मचारी यांना नावांनिशी व/किंवा नाव व पदनामाने पक्षकार करण्यात आले आहे, त्यांना विधी सहाय्य देण्यासंदर्भातील प्रस्ताव संबंधित प्रशासकीय विभागाकडून विधी व न्याय विभाग, मंत्रालय, मुंबई/सह सचिव, विधी व न्याय विभाग शाखा नागपूर/ औरंगाबाद यांच्याकडे प्राप्त होताच अशा अधिकारी/कर्मचारी/निवृत्त अधिकारी/निवृत्त कर्मचारी यांच्या वतीने संबंधीत न्यायालयात प्रकरण चालविण्याबाबत संबंधित विधी अधिकाऱ्यांना तातडीने सूचना निर्गमित करण्याची कार्यवाही विधी व न्याय विभागाने करावी.

(ड) पोलीस खात्यातील पोलीस अधिकाऱ्यांना त्यांनी कार्यालयीन कर्तव्य बजावत असतांना केलेल्या कार्यवाहीच्या अनुषंगाने उद्भवलेल्या दिवाणी/फौजदारी प्रकरणात नाव व पदनामाने प्रतिवादी केले असल्यास विधी सहाय्य मिळण्यासंदर्भात मुंबई पोलीस नियमपुस्तिका १९५५ खंड I च्या प्रकरण VIII मधील भाग IX मधील नियम २९७-२९८ मध्ये विहित केलेल्या कार्यपद्धतीचा अवलंब करावा.

(इ) अत्यंत तातडीच्या वेळी जेव्हा वेळेच्या मर्यादेमुळे वर नमूद कार्यपद्धतीचा अवलंब करणे शक्य होत नसेल तेव्हा संबंधीत अधिकाऱ्यांनी त्यांच्या नजिकच्या वरिष्ठ अधिकाऱ्यांमार्फत प्रशासकीय विभागाकडे संपर्क साधावा आणि अधिकारी/कर्मचारी/निवृत्त अधिकारी/निवृत्त कर्मचारी यांनी सद्देतूने/ सद्भावनेने कार्यालयीन काम करत असतांना प्रकरण उद्भवल्याची प्रशासकीय विभागाची खात्री झाल्यावर, त्यांनी अशा अधिकारी/कर्मचारी यांच्या वतीने विशिष्ट तारखेला प्रकरण न्यायालयासमोर चालविण्याबाबत संबंधित विधी अधिकाऱ्यांना सूचना द्याव्यात आणि प्रशासकीय विभागाकडून अशा सूचना प्राप्त होताच संबंधीत विधी अधिकाऱ्यांनी अशा अधिकाऱ्यांतर्फे उपस्थित राहून प्रकरण चालवावे. तथापि,

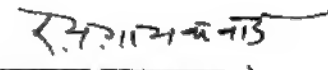
पुढील नियोजित सुनावणीच्या तारखेपूर्वी वर नमूद कार्यपद्धतीचा अवलंब करून विधी व न्याय विभागाकडून सूचना प्राप्त करून घ्याव्यात.

सर्व प्रशासकीय विभागाच्या सचिवांनी या सूचना/कार्यपद्धतीची नोंद घ्यावी आणि या सूचना/कार्यपद्धती त्यांच्या नियंत्रणाखालील सर्व संबंधित अधिकाऱ्यांच्या अनुपालनार्थ निदर्शनास आणाव्यात व सूचनांचे काटेकोरपणे पालन करावे.

वरील सूचनांचे सर्व संबंधितांकडून काटेकोर पालन न झाल्यास त्याची गंभीर दखल घेतली जाईल. संबंधित नियम ९२ व १०९ चा ^(इंग्रजीतील) उतारा सोबत जोडला आहे.

सदरहू शासन परिपत्रक महाराष्ट्र शासनाची वेबसाईट [www. maharashtra.gov.in](http://www.maharashtra.gov.in) या संकेतस्थळावर उपलब्ध असून त्याचा संगणक संकेतांक २०१११२२१०६२७९५१२३५००१ असा आहे.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नांवाने,


(रत्नाकर गायकवाड)
मुख्य सचिव

प्रति,

सर्व अपर मुख्य सचिव/प्रधान सचिव/सचिव, सर्व मंत्रालयीन विभाग, मुंबई,
सरकारी वकील, उच्च न्यायालय, (अपील शाखा), रीट सेल, मुंबई,
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सरकारी वकील, उच्च न्यायालय, नागपूर खंडपीठ, नागपूर,
सरकारी वकील, उच्च न्यायालय, औरंगाबाद खंडपीठ, औरंगाबाद.

सह सचिव, विधी व न्याय विभाग, नागपूर

सह सचिव, विधी व न्याय विभाग, औरंगाबाद

सर्व जिल्हा सरकारी वकील

मुख्य सादरकर्ता अधिकारी, महाराष्ट्र प्रशासकीय न्यायाधिकरण, मुंबई / नागपूर / औरंगाबाद.

कक्ष अधिकारी (का.७), विधी व न्याय विभाग, मंत्रालय, मुंबई.

निवड नस्ती.

RULES FOR THE CONDUCT OF THE LEGAL AFFAIRS OF GOVT. 1984

92. ***Procedure when the Government officer sued by name and designation.***- If any proceeding has been filed against the Government officer by name and designation and Government in the administrative department decides that the Government officer has been acted in the discharge of his official duties, the case should be referred to the Remembrancer of Legal Affairs or the Joint Secretary or the Deputy Secretary to Government, Law and Judiciary Department at Nagpur or Aurangabad, as the case may be, for sanctioning the defence of case on his behalf. In such matter no question of grant of legal assistance to him and reimbursement of expenses by the administrative department, would arise. However, attention of the Law Officers and Government officers concerned is invited to the High Court of Bombay's decision, dated the 28th April 1972 in Letters Patent Appeal No.37 of 1971, whereby the ruling reported in 67 Bombay Law Reporter 823 has been set aside and it has been held that neither the State of Maharashtra nor the Union of India can be vicariously held liable for the acts of the Government servants, undertaken by them pursuant to the exercise of sovereign functions of the State.

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CHAPTER XII

GRANT OF LEGAL ASSISTANCE TO GOVERNMENT SERVANTS.

109. *Grant of legal assistance to Government servants in civil and criminal proceedings.*—(1) Government in the administrative department may grant legal assistance to its officers, who have to institute civil or criminal proceedings in respect of acts done, in good faith, by or purported to have been done by them in the discharge of their official duties or to defend such proceedings in which they have been sued by name and designation, or in their personal capacity, for the acts done by them in the discharge of their official duties and it appears to Government in the administrative department that they have acted in good faith and in due discharge of their official duties. Such assistance may consist of—

(a) engagement of a counsel at Government expense to appear in such proceedings on behalf of the officer concerned; or

(b) reimbursement to the officer concerned of whole or part of the expenses incurred by him in such proceedings.

(2) A Government servant, who intends to institute or defend such proceedings or who has instituted or defended such proceedings and who desires to obtain legal assistance from Government must immediately refer the matter to his official superior.

(3) (a) The official superior to such Government servant, shall then refer the case to Government in the administrative department concerned through his head of the department.

(b) The head of the department or the Collector/District Magistrate, District Sessions Judge of the district, in which the Government servant is posted, in the case may be, if time does not permit, may authorize the engagement of a counsel in any case in which the counsel is not to be engaged by the Government Pleader in civil cases or the Public Prosecutor in criminal cases, or when the services of the Government Pleader or the Public Prosecutor are not available, any other duly qualified counsel.

(c) Provided that, no fees payable to be paid to such counsel shall exceed the fees payable to the Government Pleader or the Public Prosecutor in the Maharashtra Law Officers (Appointment, Remuneration and Service Conditions) Rules, 1964.

Provided further that institution of such proceedings shall be at the expense of Government in the administrative department concerned.

(d) Whenever a Government servant is engaged in such proceedings, he shall be deemed to be on duty and shall be entitled to the same allowances and benefits as if he were on duty.

(4) (a) On receipt of reference under sub-rule (3), Government in the administrative department shall, after consulting the Remembrancer of Legal Affairs or the Joint Secretary or the Deputy Secretary to Government, Law and Judiciary Department at Nagpur or Aurangabad, as the case may be, issue a Government Resolution granting assistance to such Government servant. In issuing such resolution regard shall be had to the provisions of sub-clause (d) of clause (3) of Article 320 of the Constitution;

(b) if the Government Pleader or Public Prosecutor is to be engaged then on the basis of such Government Resolution, the Remembrancer of Legal Affairs or the Joint Secretary or the Deputy Secretary to Government, Law and Judiciary Department at Nagpur or Aurangabad, as the case may be, shall issue necessary instructions to the Government Pleader or Public Prosecutor concerned to appear on behalf of such Government servant.

Explanation.—If any proceeding has been filed against an officer by name and designation and Government in the administrative department decides that the officer has acted in good faith in the discharge of his official duties, the case should be referred to the Remembrancer of Legal Affairs or the Joint Secretary or the Deputy Secretary to Government, Law and Judiciary Department at Nagpur or Aurangabad, as the case may be, for sanctioning the defence of the case as usual. In such cases no question of grant of legal assistance to him under these rules would arise.

(5) All applications for reimbursement of expenses incurred by a Government servant must be made to Government in the administrative department concerned through the official superior to whom he is attached at the conclusion of the proceedings.

(6) (a) Where a Government servant conducts his private business, the question of reimbursement of expenses incurred by him for his defence may be considered in case the proceedings are against him personally. In determining the amount to be reimbursed, Government in the administrative department concerned shall consider how far he acted in furtherance of the acts of the Government servant. The reimbursement shall be made in favour of the Government servant and not his legal heirs.

(b) Where a Government servant is engaged to conduct his defence against and applies to Government in the administrative department for assistance to enable him to meet the expenses of his defence, Government in the administrative department may advance a sum not exceeding Rs. 500 or such Government servant may advance a sum not exceeding Rs. 500, whichever is higher, for his defence for a period of three months, whichever is higher, from the date of the advance. The amount advanced shall be subject to a certificate from the Government Pleader or Public Prosecutor, as the case may be, to be reimbursed under clause (a).

(7) Where a Government servant is engaged to conduct his defence against in a Court of Law, the Government in the administrative department may advance a sum not exceeding Rs. 500 or such Government servant may advance a sum not exceeding Rs. 500, whichever is higher, for his defence for a period of three months, whichever is higher, from the date of the advance. The amount advanced shall be subject to a certificate from the Government Pleader or Public Prosecutor, as the case may be, to be reimbursed under clause (a).

ed. Government in the administrative department shall consider how far the court has vindicated the acts of the Government servant and the conclusion of the proceedings in favour of the Government servant will not by itself justify the reimbursement.

(b) In such cases also, Government in the administrative department may, on an application by a Government servant, sanction an interest-free advance, in suitable instalments, of an amount to be determined by it in each case separately on the execution of a bond by the Government servant in Form No. 23.

(8) In all orders sanctioning the employment of a Government Pleader or Public Prosecutor or any counsel at Government expense under sub-rule (6), it shall be expressly stated that any sum which may be recovered by the Government servant concerned from the other party as compensation, damages or costs shall be paid to Government in the administrative department in reimbursement of the cost incurred by Government and only the balance, if any, remaining thereafter, shall be retained by such Government servant. Where it is intended to reimburse to a Government servant the expenses incurred by him, only the excess, if any, of such expenses over any compensation, damages or costs that may be recovered by him from the party shall ordinarily be borne by Government in the administrative department.

(9) Every bill of fees and law charges of the Government Pleader or Public Prosecutor or any counsel engaged under this rule and every bill for reimbursement of expenses incurred by the Government servant shall be submitted for the counter-signature of the Remunerator of Legal Affairs or the Joint Secretary or the Deputy Secretary to Government, Law and Legislative Department at Nagpur or Mumbai, as the case may be, by the official servant in the Government servant concerned through the administrative department concerned. The amount of every such bill shall be debited to the credit of the Remunerator of Legal Affairs.

(10) In cases in which the State shall prosecute or defend an officer alleged to have been guilty of an offence, such officer shall be acquitted, if only such officer is acquitted, it may be deemed sufficient to reimburse to him the whole or a part of the expenses incurred by him in connection with the case of this nature shall be considered of its nature and the circumstances thereof. Government in the administrative department may, in such cases, to the officer, the whole or a part of the expenses incurred by him in connection with the case of this nature shall be considered of its nature and the circumstances thereof. Government in the administrative department may, in such cases, to the officer, the whole or a part of the expenses incurred by him in connection with the case of this nature shall be considered of its nature and the circumstances thereof.

(11) (a) The provisions of sub-rule (10) shall not apply to cases in which the State shall prosecute or defend an officer alleged to have been guilty of an offence, such officer shall be acquitted, if only such officer is acquitted, it may be deemed sufficient to reimburse to him the whole or a part of the expenses incurred by him in connection with the case of this nature shall be considered of its nature and the circumstances thereof.

(b) The provisions of sub-rule (10) shall not apply to cases in which the State shall prosecute or defend an officer alleged to have been guilty of an offence, such officer shall be acquitted, if only such officer is acquitted, it may be deemed sufficient to reimburse to him the whole or a part of the expenses incurred by him in connection with the case of this nature shall be considered of its nature and the circumstances thereof.

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**Sub:-Grant of Legal Assistance to the
Government Servants Under
Rules 92 and 109 of the Rules for
the Conduct Legal Affairs of
Government, 1984.**

**Government of Maharashtra
Law and Judiciary Department,
Circular No.9336/Misc./E.
Mantralaya, Mumbai- 400 032, dated 20th December 2011**

The Government Officers / Employees are required to perform their official duties and while due discharge of their official duties in good faith and in the public interest they took certain decisions. However, many times some persons being aggrieved by such decisions taken, by Government/Officers while discharging the official duties, challenge such decisions before the Civil and/or Criminal Courts and in such case officers/employees are made parties by their name and/or name and designation. Though there are provisions under the Rules for the Conduct of Legal Affairs of Government, 1984 (the Rules of 1984) for providing grant of legal assistance to such officers/employees, there are grievances from the officers/employees who are made parties by name or by name and designation that they are not receiving timely legal assistance, causing them inconvenience and putting them in embarrassing position. This is creating feeling of insecurity and loneliness amongst the officers/employees of the Government. This also happens in cases of officers/employees who have retired from service but have been made parties in their names and/or name and designation while acting in their official capacity in civil/criminal cases. The issue of measures to be taken for preventing recurring attacks on the Government officers/employees and providing legal assistance to the officers/employees who are made parties by name in the cases, while acting in their official capacity before the civil/criminal courts was discussed.

The provisions regarding the grant of legal assistance to the Government officers/employees who are made parties by name and/or by name and designation are contained under Rules 92 and 109 of the Rules of 1984. Rule 92 provides for procedure when Government Officer is sued by name and designation whereas Rule 109 provides for the procedure for grant of legal assistance to the officers who have to institute civil/criminal proceedings in respect of acts done in good faith, by or purported to have been done by them in discharge of their official duties or to defend such proceedings in which they have been sued by name and designation or in their personal capacity for the acts done by them in discharge of their official duties. As per the provisions of the said Rules before granting such legal assistance to the officers/employees who are made parties by name in personal capacity and/or by name and designation, the concerned Administrative Department has to form

on that the officers/employees who are made parties by name and/or by name and designation have acted in good faith and in due discharge of their official duties. Once the administrative department concerned is satisfied that such officers/employees have acted in good faith and in due discharge of their official duties and it is necessary to grant legal assistance to such officers/employees then it shall move the proposal to that effect to Law & Judiciary Department. On receipt of such proposal from the concerned administrative department the Law & Judiciary Department issues instructions to the concerned law officer for conducting the case on behalf of the officers/employees who are made parties by name and/or by name and designation. Sometime it takes time for completing this procedure, which result in inconvenience to the officers/employees who are made parties by name and designation. In order to avoid delay in this behalf and provide timely legal assistance to the officers who are made parties by name and/or by name and designation in connection with the matters while discharging their official duties in good faith, following steps be taken.

(a) As soon as the notice/intimation is received by the officer/employee/retired officer/employee about involving him as party by name and/or by name and designation in the civil/criminal cases he shall at once make reference to his concerned Administrative Department in Mantralaya for grant of legal assistance, clarifying the position under what circumstances he has been made party respondent by name and designation.

(b) The concerned Administrative Department in Mantralaya on receipt of such reference shall examine the proposal immediately and if it is satisfied that officers/employees/retired officers-employees are made parties in civil/criminal cases in connection with the work done/action taken by such officers/employees while discharging official duties in good faith, it shall make proposal to that effect without loss of time to the Principal Secretary & R.L.A., Law & Judiciary Department, Mantralaya, Mumbai or the Joint/Deputy Secretary, Law & Judiciary Department, branch at Nagpur or Aurangabad as the case may be, under whose purview the subject matter falls.

(c) When the Law & Judiciary Department, Mantralaya, Mumbai or the Joint Secretary, Nagpur or Aurangabad as the case may be receives the proposal from the concerned Administrative Department regarding grant of legal assistance to the officers/employees/retired officers-employees who are made parties by name and/or by name and designation, shall take immediate steps to instruct concerned Law Officer for conducting the matter before the court concerned on behalf of such officers/employees/retired officers-employees who are made party by name and/ or by name and designation.

(d) The Police officer in the Police Department who have been made party respondents by name and designation in civil/criminal proceedings in respect of acts

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done by them in discharge of their official duties, for obtaining legal assistance they shall follow the procedure as prescribed in the rules 297 and 298 in section IX of Chapter VIII of the Bombay Police Manual, 1959 Vol.I.

(e) In case of extreme urgency when the time does not permit to follow the procedure laid down above, the officer concerned shall approach the Administrative Department through his immediate higher officer who in turn, on satisfying itself that the case has arisen in respect of the action taken by the officer / employee in due discharge of his official duty and in good faith shall instruct the Law Officer concerned for conducting the matter on behalf of such officers/employees on the particular date before the court and on such instructions from the Administrative Department, the concerned Law Officer shall appear in the case on behalf of such officers/employees. However, before the next scheduled date by the court for hearing the matter, the instructions be sought from the Law & Judiciary Department after following the procedure mentioned above.

The Secretaries of the Administrative Departments should take note of these instructions and should bring these instructions to the notice of all the officers working under their control and follow the above instructions scrupulously.

Lapses on the part of all the concerned in this behalf will be viewed seriously. The extract of rules 92 and 109 is annexed hereto.

The circular is available on the Website of Government of Maharashtra at www.maharashtra.gov.in and Computer Code of the Circular is 201112210627351235001

By order and in the name of the Governor of Maharashtra.


(Ratnakar Gaikwad)
Chief Secretary

To

All Additional Chief Secretaries/Principal Secretaries/Secretaries of the Administrative Departments in Mantralaya, Mumbai.

The Government Pleader, High Court (A.S.), Writ Cell, Mumbai.

The Government Pleader, High Court (O.S.), Mumbai.

The Government Pleader, High Court (A.S.), Mumbai.

The Government Pleader, High Court, Nagpur Bench at Nagpur.

The Government Pleader, High Court, Aurangabad Bench at Aurangabad.

The Joint Secretary to Government, Law and Judiciary Department, Nagpur.

The Joint Secretary to Government, Law and Judiciary Department, Aurangabad.

All the District Government Pleaders.

The Chief Presenting Officers, Maharashtra Administrative Tribunal,
Mumbai/Nagpur/Aurangabad.

The Desk Officer/Desk-7, Law & Judiciary Department, Mantralaya, Mumbai.